

AMENDED IN ASSEMBLY JULY 21, 1997

AMENDED IN ASSEMBLY JULY 7, 1997

**SENATE BILL**

**No. 408**

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**Introduced by Senator Maddy**  
(Coauthor: Assembly Member Wildman)

February 18, 1997

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An act to amend Section 84752 of the Education Code, to amend Sections 8543.2, 8545, and 14525.6 of, and to repeal Section 8544.1 of, the Government Code, to amend ~~Sections 14105.42 and 19640.5 of~~ *Section 14105.42 of*, and to *repeal and add Section 19640.5 of*, the Welfare and Institutions Code, and to amend Section 13 of Chapter 1044 of the Statutes of 1990, relating to the State Auditor.

LEGISLATIVE COUNSEL'S DIGEST

SB 408, as amended, Maddy. State Auditor.

**Existing**

(1) *Existing* law prohibits the State Auditor from releasing to the public, among other things, papers, correspondence, or memoranda pertaining to any audit or investigation not completed if the State Auditor determines that disclosure will impede the audit or investigation. Existing law also prohibits the disclosure of papers, correspondence, or memoranda pertaining to any audit or investigation that has been completed if the materials are not used in support of any report resulting from the audit or investigation.

This bill would instead prohibit the release of papers, correspondence, memoranda, or any information pertaining

to any audit not completed, delete references to an investigation in these provisions, and delete the requirement that the State Auditor determine that disclosure will impede the audit. The bill would also delete an obsolete provision relating to the Auditor General or Acting Auditor General serving as the Acting State Auditor.

~~Existing~~

(2) *Existing law establishes a 4-year term for the State Auditor.*

This bill would revise that to a 9-year term beginning with the State Auditor who holds office after the term of the State Auditor in office on January 1, 1998, has ended.

~~The bill would also delete certain reports that the State Auditor is required to make and instead authorize the Joint Legislative Audit Committee to review the requirements and delete, modify, or extend them with respect to the State Auditor by specified dates.~~

(3) *Existing law requires the Auditor General to annually conduct a review of allocations and expenditures of state transportation funds made under specified transportation related acts.*

This bill would revise this requirement to apply to the State Auditor and end the requirement on January 1, 1999, or on the date of a report by the Joint Legislative Audit Committee, whichever is earlier.

(4) *Existing law requires the Auditor General to prepare a report every 6 months regarding Medi-Cal drug treatment authorization requests.*

This bill would revise this requirement to apply to the State Auditor and end the requirement on January 1, 1999, or on the date of a report by the Joint Legislative Audit Committee, whichever is earlier.

(5) *Existing law requires the Auditor General to conduct a fiscal audit every 3rd fiscal year and a programmatic review and audit every 5 years of the business enterprises for the blind program.*

This bill would revise this requirement to apply to the State Auditor and require that the fiscal audit be conducted until January 1, 2002, and the programmatic audit until January 1, 2003.

(6) Existing law requires the Auditor General, during the annual fiscal audits of major departments, to include an audit of how each agency is complying with state law regarding consulting contracts.

This bill would revise this requirement to apply to the State Auditor and end the requirement on January 1, 1999, or on the date of a report by the Joint Legislative Audit Committee, whichever is earlier.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 84752 of the Education Code is  
2 amended to read:

3 84752. (a) No community college district shall  
4 receive full-time equivalent student (FTES) funding for  
5 activities that are fully funded through another source.  
6 The Board of Governors of the California Community  
7 Colleges shall adopt regulations to implement this  
8 subdivision.

9 (b) The State Auditor shall report to the Legislature  
10 by January 1, 2000, on the status of community college  
11 district compliance with this section. *In preparing this*  
12 *report, the State Auditor shall use the audit methodology*  
13 *used in the Bureau of State Audits Report No. 96103.*

14 SEC. 2. Section 8543.2 of the Government Code is  
15 amended to read:

16 8543.2. (a) The head of the bureau is the State  
17 Auditor, who shall be appointed by the Governor from a  
18 list of three qualified individuals nominated by the Joint  
19 Legislative Audit Committee by a vote of at least a  
20 majority of the committee membership from each house  
21 of the Legislature. The term of any individual appointed  
22 as the State Auditor shall be four years. However, the  
23 term of any State Auditor appointed after the term of the  
24 State Auditor who holds office on January 1, 1998, has  
25 ended shall be for nine years. Any vacancy in the office  
26 shall be filled in the same manner provided by this  
27 subdivision for a full term.

(b) As the head of the bureau, the State Auditor may establish constituent parts of the bureau to carry out the powers and duties of the bureau unless otherwise specified by law.

(c) The bureau has a Chief Deputy State Auditor.

SEC. 3. Section 85441.1 of the Government Code is repealed.

SEC. 4. Section 8545 of the Government Code is amended to read:

8545. The State Auditor shall not destroy any papers or memoranda used to support a completed audit sooner than three years after the audit report is released to the public. All books, papers, records, and correspondence of the bureau pertaining to its work are public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 and shall be filed at any of the regularly maintained offices of the State Auditor, except that none of the following items or papers of which these items are a part shall be released to the public by the State Auditor, his or her employees, or members of the commission:

(a) Personal papers and correspondence of any person receiving assistance from the State Auditor when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn or upon the order of the State Auditor.

(b) Papers, correspondence, memoranda, or any information pertaining to any audit not completed.

(c) Papers, correspondence, or memoranda pertaining to any audit that has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit.

SEC. 5. Section 14525.6 of the Government Code is amended to read:

14525.6. (a) Until January 1, 1999, or the date of the report specified in subdivision (b), whichever is earlier, the State Auditor shall annually conduct a review of allocations and expenditures at the state level of

1 transportation funds made available by Chapters 105, 106,  
2 and 108 of the Statutes of 1989, to determine whether the  
3 purposes for which those funds are allocated and  
4 expended conform to the requirements of Chapters 105,  
5 106, and 108 of the Statutes of 1989. Not later than March  
6 1, 1992, and by March 1 of each year thereafter, until  
7 January 1, 1999, or the date of the report specified in  
8 subdivision (b), whichever is earlier, the State Auditor  
9 shall submit a report on the results of that review to the  
10 Governor and to the Legislature.

11 (b) The Joint Legislative Audit Committee may  
12 review and report on the requirements imposed on the  
13 State Auditor by subdivision (a) on or before January 1,  
14 ~~1999, and may delete, modify, or extend these~~  
15 ~~requirements respecting the State Auditor based on that~~  
16 ~~review. 1999.~~

17 SEC. 6. Section 14105.42 of the Welfare and  
18 Institutions Code is amended to read:

19 14105.42. (a) The department shall report to the  
20 Legislature after the first three major therapeutic  
21 categories have been reviewed and contracts executed.  
22 The report shall include the estimated savings, number  
23 of manufacturers entering negotiations, number of  
24 contracts executed, number of drugs added and deleted,  
25 and impact on Medi-Cal beneficiaries and providers.

26 (b) The department shall provide the following data  
27 to the Legislature and to the State Auditor by January 1,  
28 1991, and every six months thereafter:

29 (1) The number of drug treatment authorization  
30 requests (TAR) received by facsimile, by secondary  
31 answering system and in person for each therapeutic  
32 category.

33 (2) The number of drug TARS requested, approved,  
34 denied, and returned.

35 (3) The length of time between the TAR request and  
36 the decision, specified by type of communication such as  
37 telephone or facsimile if available.

38 (4) For denied TARS, the number of fair hearings  
39 requested, approved, denied and pending.

1 (5) The numbers of providers who were unable to  
2 submit a request or made multiple attempts because of  
3 faulty or unavailable lines of communication, if available.

4 (6) The numbers of complaints made by beneficiaries  
5 and providers relating to difficulty or inability to obtain  
6 a TAR response.

7 (7) The status of the enhancements to the TAR process  
8 specified in Section 21 of Chapter 457 of the Statutes of  
9 1990.

10 (8) The number of calls on the TAR line which are not  
11 getting through.

12 (c) Until January 1, 1999, or the date of the report  
13 specified in subdivision (f), whichever is earlier, the State  
14 Auditor shall prepare a report by February 1, 1991, and  
15 every six months thereafter providing a summary and  
16 analysis of the data specified in subdivision (b), and a  
17 comparative analysis of changes in the TAR process using  
18 June 1, 1990, as a base. The analysis shall include a measure  
19 of increased or decreased ability to contact the  
20 department and receive a response in a shorter or greater  
21 period of time.

22 (d) The Bureau of State Audits shall prepare a report  
23 by January 1, 1998, on the drug program management  
24 techniques of the drug contracting program, and the  
25 comparability of the program to other private sector  
26 third-party payers. In completing its report the bureau  
27 may consult with the department, prescribing physicians,  
28 pharmacists, drug manufacturers, representatives of  
29 beneficiaries, and others as the bureau sees fit.

30 (e) The department shall report to the Legislature,  
31 through the annual budget process, on the  
32 cost-effectiveness of contracts executed pursuant to  
33 Section 14105.33.

34 (f) The Joint Legislative audit Committee may review  
35 and report on the requirements imposed on the State  
36 Auditor by subdivision (c) on or before January 1, 1999;  
37 ~~and may delete, modify, or extend these requirements~~  
38 ~~respecting the State Auditor based on that review.~~

39 (g) This section shall remain in effect only until  
40 January 1, 1999, and as of that date is repealed, unless a

1 later enacted statute, which is enacted before January 1,  
2 1999, deletes or extends that date.

3 SEC. 7. Section 19640.5 of the Welfare and Institutions  
4 Code is amended to read: *Code is repealed.*

5 ~~19640.5. (a) Until January 1, 2002, or the date~~  
6 ~~specified in subdivision (b), whichever is earlier, the~~  
7 ~~State Auditor shall conduct a fiscal audit every third fiscal~~  
8 ~~year, and, until January 1, 2003, or the date of the report~~  
9 ~~specified in subdivision (b), whichever is earlier, the~~  
10 ~~State Auditor shall conduct a programmatic review and~~  
11 ~~audit every five years, both commencing with the~~  
12 ~~1991-92 fiscal year.~~

13 ~~(b) The Joint Legislative Audit Committee may~~  
14 ~~review and report on (1) the requirement imposed on~~  
15 ~~the State Auditor by subdivision (a) that a fiscal audit be~~  
16 ~~performed after two audits have been completed and (2)~~  
17 ~~the requirement that a programmatic review be~~  
18 ~~performed after two programmatic reviews have been~~  
19 ~~completed and may delete, modify, or extend these~~  
20 ~~requirements respecting the State Auditor based on these~~  
21 ~~reviews.~~

22 SEC. 8.—

23 SEC. 8. Section 19640.5 is added to the Welfare and  
24 Institutions Code, to read:

25 19640.5. (a) Commencing with the 1991-92 fiscal  
26 year, the State Auditor shall conduct a fiscal audit every  
27 third fiscal year, until January 1, 2002, and a  
28 programmatic review and audit every five years, until  
29 January 1, 2003.

30 (b) The Joint Legislative Audit Committee may  
31 review and report on the audit requirements imposed on  
32 the State Auditor by subdivision (a) on or before January  
33 1, 2002, for the fiscal audit requirement, and on or before  
34 January 1, 2003, for the program review and audit  
35 requirement.

36 SEC. 9. Section 13 of Chapter 1044 of the Statutes of  
37 1990 is amended to read:

38 Sec. 13. (a) Until January 1, 1999, or the date of the  
39 report specified in subdivision (b), whichever is earlier,  
40 the State Auditor, during the annual fiscal audits of major

1 departments, shall include an audit of how each agency  
2 is complying with state law and regulations dealing with  
3 consultant contracts. The audit shall include, but not be  
4 limited to, the matters in paragraphs (1), (2), and (3),  
5 and shall be provided to those agencies listed in  
6 subdivision (c) of Section 10359 of the Public Contract  
7 Code. In addition to major departments, the State  
8 Auditor shall also audit consultant contract usage by a  
9 random sampling of three smaller departments and  
10 offices each year.

11 Matters to be considered:

12 (1) The extent to which each agency has complied  
13 with state law.

14 (2) The use or overuse of sole-source contracts.

15 (3) Whether the state agency has utilized the results  
16 obtained by the consultants pursuant to the contracts.

17 It is the intent of the Legislature that the information  
18 contained in the report be available for use in legislative  
19 budget hearings.

20 (b) The Joint Legislative Audit Committee may  
21 review and report on the requirements imposed on the  
22 State Auditor by subdivision (a) on or before January 1,  
23 ~~1999, and may delete, modify, or extend these~~  
24 ~~requirements respecting the State Auditor based on that~~  
25 ~~review. 1999.~~

